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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/741,956  
Filing Date: December 20, 2000  
Appellant(s): LEE ET AL.

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Kang S. Lim  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 7/18/08 appealing from the Office action  
mailed 12/28/07.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

6,078,893	OUMET ET AL	6-2000
6,044,357	GARG	3-2000

6,684,193

CHAVEZ

1-2004

### **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 6, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ouimet et al (US 6,078,893), and further in view of Garg, (US 6,044,357)

As per claim 1 Ouimet et al discloses:

Creating, using the computer system, a plurality of demand groups..., further wherein each demand group, is a set of at least one product, and wherein at least one of the demand groups is a set of at least two products, (col. 5, lines 45-64, [shows demand is described for each item in a given group where the product is represented by the item, in this case, one of the demand groups being a set of at least two products is inherent since Ouimet et al discloses that "each item in a given group" implies that there are more than one items in a group since the sales of "one" item can depend upon the parameters of all the other items]);

Creating, using the computer system, a demand group sales model as a function of price wherein said demand group sales model models sales for each demand group,

(col. 6, lines 5-11, [shows a one-dimensional demand model which scales the amount of sales, in this case, the variables are simply the prices  $\{p\}$ , and the demand parameters  $q_i$  scales the amount of sales and  $g_i$ , which describes the sensitivity of the item to price]),

further wherein said demand group sales model provides a single model for modeling sales of all of the products in each said demand group, (Col. 6, lines 12-15, shows more complicated models where a demand model which the is a nonlinear, cross-correlation between the variables of different items, which represent products);

Creating, using the computer system, said product sales model by combining said demand group sales model and said internal market share model, wherein said product sales model models sales for individual products, further wherein said product sales model combines said demand group sales model and said internal market share model to produce said product sales model for individual products, (Col. 6, lines 63-64, where the user selects a figure-of-merit function to be used to tune the demand model to the sales history, thereby creating a resulting demand model that conforms to the portions of the sales history data that shows a strong trend, and conform to the external market information when the corresponding portions of the sales history data show noise as shown in the abstract, lines 13-17, w/ Col. 6, lines 12-15, shows a demand model which the is a nonlinear, cross-correlation between the variables of different items, which represent individual products);

Ouimet et al does not specifically disclose wherein each demand group is a user defined group of highly substitutable products, but does disclose defining a new market model that represents and describes how the demand parameters are expected to vary,

where the demand parameters relate to the products in each demand group in col. 6, lines 17-25.

However, Garg discloses:

wherein each demand group is a user defined group of highly substitutable products, (Col. 13, line 65, shows inventory maintenance is implemented for products which means that these products are replaceable through inventory stock, w/ Col. 14, lines 55-58 and col. 15 lines 17-18 and lines 24-26, shows a computer-implemented method where there is a selection of a first marketing mix, a selection of another marketing mix, and then the identification of which marketing mix generates the largest profit/loss, in this case, one marketing mix for products can be substituted for another marketing mix for the highest profit or loss outcome, also, in this case, since the method is computer-implemented, this suggests that a user is operating a computer to process the data and to achieve the acquired results, thereby suggesting that a user defines the groups through the selection of marketing mixes which leads to the identification of a marketing mix). Garg discloses this limitation in an analogous art for the purpose of showing that products within marketing mixes are interchangeable.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention for each demand group to be a group of highly substitutable products with the motivation of having the ability to replace the products when needed.

Ouimet et al does not specifically disclose the following, but does disclose defining a new market model that represents and describes how the demand

parameters are expected to vary, where the demand parameters relate to the products in each demand group in col. 6, lines 17-25:

Creating, using the computer system, a market share model wherein said market share model determines the fraction of the sales of each demand group comprised by each product, however does disclose defining a new market model that represents and describes how the demand parameters are expected to vary, where the demand parameters relate to the products in each demand group in col. 6, lines 17-25.

However, Garg discloses:

creating, using the computer system, a market share model wherein said market share model determines the fraction of the sales of each demand group comprised by each product,, (col. 5, lines 38-41, [market share model to characterize the demand distribution for each brand, in this case, the group is represented by the brand, and the demand distribution represents a different demand resulting from sales for each product. This demand distribution will therefore vary for each brand, and therefore represents fraction of the sales]. In addition, the sales are internal since the demand groups are by a particular brand, which means that sales do not have to go to an external source for another brand). Garg discloses this limitation in an analogous art for the purpose of showing that market share models are used to set base stock levels for inventory management.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to create a market share model for each product in each demand

group with the motivation of providing a representation of how the demand distribution is represented through products.

As per claim 6, Ouimet et al discloses:

Defining an equalizing factor for the products of each demand group, (Col. 4, line 66-Col. 5, line 6).

Claims 3-4, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chavez et al, (US 6,684,193), and further in view of Ouimet et al, (US 6,078,893).

As per claim 3, Chavez et al discloses:

Computer program instructions which, when executed by a computer, cause the computer to generate an econometric engine for modeling sales as a function of price, (Col. 7, lines 5-10 and lines 58-62, shows using the economical model to balance the amount of money brought in from sales against the costs).

A imputed variable generator for generating imputed econometric variables; (col. 8, lines 22-27, [consumption distribution imputed {inferred} from components]);

A coefficient estimator coupled to the imputed variable generator, and wherein imputed variables generated by the variable generator are used by the coefficient estimator to create a demand group sales model as a function of price, wherein said demand group sales model provides a single model for modeling sales of all of the products in each said demand group, wherein each said demand group is a user defined group of highly substitutable products, ([col. 15, lines 6-14, [shows an example of how the revenue coefficient is incorporated into modeling the value function in a



manner to account for interactive effects between the refinements and the resources that comprise that particular model], w/ abstract, lines 2-9, shows a model that provides a demand distribution of the refinements, w/Col. 5, lines 4-11, substitution of resources);

an internal market share model, and a combined product sales model, wherein said product sales model models sales for individual products, further wherein said product sales model combines said demand group sales model and said internal market share model to produce said product sales model for individual products, [col. 15, lines 6-14, [shows an example of how the revenue coefficient is incorporated into modeling the value function in a manner to account for interactive effects between the refinements and the resources that comprise that particular model], w/ (Col. 6, lines 12-15, shows more complicated models where a demand model which the is a nonlinear, cross-correlation between the variables of different items, which represent individual products).

Chavez et al does not specifically disclose the terms "variable generator" or "coefficient estimator", however, does disclose an engine (col. 8, lines 23-31) that produces the same results, and therefore represents the econometric engine that contains the "variable generator" and the "coefficient estimator". Therefore, the "variable generator" and the "coefficient estimator" are inherent with Chavez et al.

Chavez et al fails to disclose including a base price variable and a base volume Variable, wherein said base volume variable represents the volume of product units sold in the absence of discount pricing or other promotional effects/an imputed base price variable and an imputed base volume variable, but does disclose the generation of a

model for the demand of a product in col. 53-63, and does disclose that the base parameter's values would only depend on the sales level and price in Col. 10, line 60-67.

However, Ouimet et al discloses:

including a base price variable and a base volume variable/an imputed base price variable and an imputed base volume variable wherein said base volume variable represents the volume of product units sold in the absence of discount pricing or other promotional effects, (Col. 10, lines 60-65, where the base parameters in the demand model are the amount of sales and price, here the amount of sales is the volume and the price is the price, w/ col. 5, lines 64-67, shows that variables that affect the demand can include promotional activity). Ouimet et al discloses this limitation in an analogous art for the purpose of disclosing a one-dimensional demand model.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to include a base price variable and a base volume variable with the motivation of having variables available to formulate a base demand model.

As per claim 4, Chavez et al discloses:

Wherein the imputed variable generator receives raw data, and cleans the data, (Col. 20, lines 24-32, [filtering and then identifying variables]).

As per claim 9, Ouimet et al does not specifically disclose wherein said raw data includes missing or incomplete data sets, (Col. 11, lines 36-41, imperfect information). Garg discloses this limitation in an analogous art for the purpose of showing that firms do not usually know the exact strategy their competitors will adopt.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention for raw data to include missing or incomplete data with the motivation of realistically showing the details of raw data.

Claims 2, 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ouimet et al (US 6,078,893) as applied to claim 1 above, and further in view of Garg, (US 6,044,357), and further in view of Chavez et al (US 6,684,193).

As per claim 2, Ouimet discloses:

wherein said raw data includes product parameter data which is missing or incomplete, wherein said imputed variables are used to estimate said missing or incomplete data, (Col. 11, lines 58-67, provides a way to correct for errors by a tuning process where the system reduces the number of tunable parameters, thus allowing for a way to minimize the influence of random noise in the data, in this case the inclusion of noise represents the production of incomplete data since the noise interferes with full production of data, and the tuning represents the process used for estimating the incomplete data).

Both Ouimet et al and Garg fail to disclose collecting, using the computer system, raw data; and generating, using the computer system, imputed variables from the raw data, wherein the imputed variables are used to create the product sales model, but Ouimet et al does disclose generating a sales model in Col. 6, lines 5-11.

However, Chavez et al discloses:

collecting, using the computer system, raw data; and generating, using the computer system, imputed variables from the raw data, further wherein the imputed variables are used to create the product sales model, (Col. 20, lines 24-32, [filtering and then identifying variables], w/ col. 6, lines 5-11, [shows a one-dimensional demand model which scales the amount of product sales, in this case, the variables are simply the prices {p}, and the demand parameters  $q_i$  scales the amount of sales and  $g_i$ , which describes the sensitivity of the item to price according to product sales]). Chavez et al discloses this limitation in an analogous art for the purpose of identifying variables that go furthest in "explaining" the uncertainty in the particular variable of interest.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to collecting, using the computer system, raw data; and generating, using the computer system, imputed variables from the raw data, wherein the imputed variables are used to create the product sales model with the motivation of producing a sales model with unused product data.

As per claim 7, Ouimet et al discloses:

including a base price variable and a base volume variable/an imputed base price variable and an imputed base volume variable wherein said base volume variable represents the volume of product units sold in the absence of discount pricing or other promotional effects, (Col. 10, lines 60-65, where the base parameters in the demand model are the amount of sales and price, here the amount of sales is the volume and the price is the price, w/ col. 5, lines 64-67, shows that variables that affect the demand can include promotional activity).

As per claim 8, Ouimet et al discloses:

Generating a moving average for base price; and generating a moving average for base volume, (Col. 6, lines 51-53, shows how values stray from those which are expected based on the average margin for an item).

As per claim 10, Ouimet et al discloses:

defining an equivalent price for each said product using said equalizing factor;  
defining equivalent units sold for each said product using said equalizing factor;  
defining an equivalent base price for each said product using said equalizing factor;  
defining equivalent base units sold for each said product using said equalizing factor, (col. 5, lines 1-12, shows that the figure of merit function entered by the user, which depends upon a selected demand model is equivalent to a standard function ( $x$  squared), and gives an example of the sales history for a particular item as it relates to the selected model, therefore any function entered by the user will have an equivalent  $x$  squared function associated with it, w/col. 6, lines 5-11, shows that price is a constant equal to the average price of the item);

creating a demand group equivalent sales model based on said equivalent price and said equivalent units sold, see above paragraph, col. 5, lines 1-12, demand model);

creating, using the computer system, an equivalent product sales model by combining said demand group equivalent sales model and said equivalent internal market share model, wherein said equivalent product sales model models equivalent sales for individual products, (Col. 6, lines 63-64, where the user selects a figure-of-merit function to be used to tune the demand model to the sales history, thereby

creating a resulting demand model that conforms to the portions of the sales history data that shows a strong trend, and conform to the external market information when the corresponding portions of the sales history data show noise as shown in the abstract, lines 13-17, w/ Col. 6, lines 12-15, shows a demand model which the is a nonlinear, cross-correlation between the variables of different items, which represent individual products);

Quimet et al does not disclose creating an equivalent internal market share model based on said equivalent price and said equivalent units sold, however does disclose defining a new market model that represents and describes how the demand parameters are expected to vary, where the demand parameters relate to the products in each demand group in col. 6, lines 17-25.

However, Garg discloses:

creating, using the computer system, an internal a market share model wherein said internal market share model determines the fraction of the internal sales of each demand group comprised by each product,, (col. 5, lines 38-41, [market share model to characterize the demand distribution for each brand, in this case, the group is represented by the brand, and the demand distribution represents a different demand resulting from sales for each product. This demand distribution will therefore vary for each brand, and therefore represents fraction of the sales]. In addition, the sales are internal since the demand groups are by a particular brand, which means that sales do not have to go to an external source for another brand). Garg discloses this limitation in

an analogous art for the purpose of showing that market share models are used to set base stock levels for inventory management.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to create a market share model for each product in each demand group with the motivation of providing a representation of how the demand distribution is represented through products.

Neither Ouimet et al nor Garg disclose indexing said demand group equivalent sales model by divided said demand group equivalent sales by baseline demand group equivalent sales, but Ouimet et al does disclose defining a new market model that represents and describes how the demand parameters are expected to vary, where the demand parameters relate to the products in each demand group in col. 6, lines 17-25.

However, Chavez et al discloses:

indexing said demand group equivalent sales model by divided said demand group equivalent sales by baseline demand group equivalent sales, (Col. 10, lines 7-25, shows that the baseline demand is considered when dealing with modeled parameters). Chavez et al discloses this limitation in analogous art for the purpose of showing that baseline demand serves as a part of modeling demand.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to index the demand group equivalent sales model by divided said demand group equivalent sales by baseline demand group equivalent sales with the motivation of showing a demand model based on baseline demand.

As per claim 11, Chavez discloses:

and wherein said econometric engine utilizes a mixed-model framework wherein data across all stores and products for a selected demand group is utilized simultaneously, (abstract, lines 13-17, w/ Col. 6, lines 12-15, shows a demand model which the is a nonlinear, cross-correlation between the variables of different items, which represent individual products).

The following is obvious with Chavez since Chavez already discloses an imputed variable generator for generating imputed econometric variables in col. 8, lines 22-27, as discussed above with respect to claim 3, and an imputed consumer stockpiling variable, an imputed day of the week variable, an imputed seasonality variable, an imputed promotional variable, and an imputed cross-elasticity variable are all a part of econometric parameters, and are all commonly applied in the application of economics in the study of problems, the analysis of data, and the development and testing of theories and models:

said imputed variable generator generates additional econometric variables including an imputed consumer stockpiling variable, an imputed day of the week variable, an imputed seasonality variable, an imputed promotional variable, and an imputed cross-elasticity variable.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention for said imputed variable generator generates additional econometric variables including an imputed consumer stockpiling variable, an imputed day of the week variable, an imputed seasonality variable, an imputed promotional



variable, and an imputed cross-elasticity variable with them motivation of providing well known economic parameters for modeling demand.

#### **(10) Response to Argument**

As per claim 1, appellant argues that that the demand models of Ouimet et al are only generated for each item, and appears to be no suggestion in Ouimet of determining a demand model for the entire "group". However, in col. 6, lines 5-11 of Ouimet et al, a one-dimensional demand model, which scales the amount of sales is shown. In addition, col. 5, lines 45-64 of Ouimet et al does shows that demand is described for each item in a given group, however, this passage also discloses that the demand for a single item usually depends upon the demand for all other items. Therefore, Ouimet et al suggests that the demand for a single item is based on, and is a representation of group demand. Therefore, when the demand-model, which is no more than a representation of the demand, is generated, this model will also represent group demand.

As per claim 1, appellants also argues that it appears that Garg discloses an iterative process of selecting groupings of brands and determining profits, and at the end of the iterative process, the grouping of brands with the highest profits is identified. Appellant argues that Garg discloses grouping of brands, not individual products. Appellant continues to argue that these groupings, as disclosed in Garg, make no hint, mention, suggestion, or reference of grouping by substitutable products. However, in the Garg patent, a "Brand" is in the same category of a product since Garg is only concerned with product brands. Also, the terms "Brand" and "product" are

interchangeable since according to Dictionary.com, a brand is a "A trademark or distinctive name identifying a product or a manufacturer" In addition, Col. 13, line 65, shows inventory maintenance is implemented, and therefore, product brands are replaceable through inventory stock. With respect to Col. 14, lines 55-58 and col. 15 lines 17-18 and lines 24-26, showing the selection of a first marketing mix, a selection of another marketing mix, and then the identification of which marketing mix generates the largest profit/loss, one marketing mix for products can therefore be substituted for another marketing mix for the highest profit or loss outcome since, Garg is concerned with Brands, which represents a product as disclosed above.

In addition, as per claim 1, appellant argues that Lastly, Chavez et al. relates generally to the allocation of resources for a manufacturing process. (See Column 6, lines 44-50), and that the field of invention disclosed in Chavez et al. differs greatly from that of pricing optimization as disclosed in the present invention. However, Chavez et al is directed towards a system that discloses a one-dimensional demand model which scales the amount of product sales, where, in this case, the variables are simply the prices  $\{p\}$ , and the demand parameters  $q_i$  scales the amount of sales and  $g_i$ , which describes the sensitivity of the item to price according to product sales for the purpose of identifying variables that go furthest in "explaining" the uncertainty in the particular variable of interest as shown in col. 6, lines 5-11. In addition, col 11, lines 39-43 of Chavez et al discloses profit optimization as a result of product demand.

In addition, as per claim 1, appellant argues that there is insufficient evidence of record of a motivation to combine Ouimet et al., Garg and Chavez et al. in a manner

meeting the invention as recited in claim 1 or 3. *KSR* forecloses applicant's argument that a specific teaching is required for a finding of obviousness. *KSR*, 127 S.Ct. at 1741, 82 USPQ2d at 1396. Claim 1 recited combinations which only unite old elements with no change in their respective functions and which yield predictable results. Thus, the claimed subject matter likely would have been obvious under *KSR*.

As per claim 1, Appellant also argues that Ouimet '893 does not teach or suggest the generation of demand groups, as claimed, in any way. Not only is there no description of grouping products by substitutability, Ouimet et al. appears to only discuss performing product grouping for "micro-marketing". (See Column 8, lines 29-37). Appellant also argues that there no description of grouping products by substitutability, Ouimet et al. appears to only discuss performing product grouping for "micro-marketing". (See Column 8, lines 29-37). However these arguments mimic individual arguments disclosed as discussed above with respect to Ouimet and Garg, and are therefore still rejected for the same reasons.

In addition, as per claim 1, appellants argue that Ouimet '893 does not teach or suggest modeling the sales for the entire demand group as in Claim 1, and contrary, Ouimet et al. discloses "a system of coupled equations that describe the demand for each item. However, these arguments mimic individual arguments disclosed as discussed above with respect to Ouimet and Garg, and are therefore still rejected for the same reasons.

As per claim 1, Appellants also argue that Ouimet '893 does not teach or suggest "[c]reating, using the computer system, said product sales model by combining said demand group sales model and said internal market share model, wherein said product sales model models sales for individual products, further wherein said product sales model combines said demand group sales model and said internal market share model to produce said product sales model for individual products" in the manner of Claims 1 and 3, and argues that Ouimet uses a system of coupled equations that describe the demand for each item. However, Col. 6, lines 63-64, of Ouimet does disclose a tuning process, however this same process is used to create a resulting demand model that conforms to the portions of the sales history data that shows a strong trend by replacing the parameters of the demand model with parameters of the market model, thereby combining the results as shown in Col. 2, lines 40-54. Also, Col. 6, lines 12-15, shows a demand model can be created using a nonlinear, cross-correlation between the variables of different items, where items are represented through demand group sales models and internal market share models as described above in the preceding paragraph and in the rejection, and therefore the demand model is represented through a cross-correlation of demand group sales models and internal market share models.

As per claims 2, 6-8 and 10, these claims depend from claim 1. Examiner respectfully submit that said claims are also rejected for at least the same reasons as discussed above in reference to claim 1.

As per claims 4, 9 and 11, these claims depend from claim 3. Examiner respectfully submit that said claims are also rejected for at least the same reasons as discussed above in reference to claim 3.

As per claim 6, Appellants argue that Ouimet '893 does not teach or suggest "defining an equalizing factor for the products of each demand group". However, in Col. 4, line 66-Col. 5, line 6, Ouimet teaches that a "figure-of-merit function" Applicant argues that a figure-of-merit function is unsuitable to be used to equvalate volumes, or sizes, of products to one another. The cited art appears to have nothing to do with equalizing factor or demand groups as disclosed in the present invention. Instead the cited art appears to only be concerned with tuning demand models to "sales history." (See Column 5, line 5). However, this "figure-of-merit function" depends on the selected demand model, and is equivalent to a standard..." In this case this function is made equivalent to another value and is used to select models for demand groups.

Regarding claim 3, Appellant argues that Chavez fails to disclose demand groups and demand group sales model, or any type of market share model. However, in Col. 5, lines 4-11, Chavez discloses, the substitution of resources, and also discloses a model that provides a demand distribution of the refinements in abstract, lines 2-9, which represents modeling demand groups.

Appellant argues that Chavez fails to disclose combined product sales models. However, col. 15, lines 6-14, shows an example of how the revenue coefficient is incorporated into modeling the value function in a manner to account for interactive effects between the refinements and the resources that comprise that particular model.

In addition, Col. 6, lines 12-15, shows more complicated models where a demand model which is a nonlinear, cross-correlation between the variables of different items, which represent individual products.

As per claim 4, appellant argues that Chavez fails to disclose data cleansing and that this filtering does not appear to alter, replace, delete or materially affect the data, and that instead, this filtering of Chavez et al. is a selection process. However, Col. 20, lines 24-32 discloses filtering and then identifying variables. Since data variables are identified after being filtered, this represents materially affecting data since the filtered data set will be different than the unfiltered set.

As per claim 2, appellant argues that Chavez fails to disclose product sales models. However, it is the combination of Ouimet, Garg and Chavez that disclose this limitation. Specifically, in col 6, lines 5-11 of Ouimet, generating a sales model is disclosed. In addition, Col. 20, lines 24-32 of Chavez shows filtering and then identifying variables, and col. 6, lines 5-11, of Chavez shows a one-dimensional demand model which scales the amount of product sales, in this case, the variables are simply the prices  $\{p\}$ , and the demand parameters  $q_i$  scales the amount of sales and  $g_i$ , which describes the sensitivity of the item to price according to product sales for the purpose of identifying variables that go furthest in "explaining" the uncertainty in the particular variable of interest.

As per claim 8, appellant argues that Ouimet fails to disclose moving averages, which according to appellant means an average calculated over a time period, where the time period bucket changes over time. However, this limitation is shown in the

rejection to be rejected by Ouimet et al specifically in Col. 6, lines 51-53, it is shown how values stray from those which are expected based on the average margin for an item. In this case, there will be some type of time period change with the change of values since change occurs over a period of time.

As per claim 10, Appellants submit that Ouimet et al. does not disclose an "equalizing factor". As previously stated, Ouimet discloses this equalizing factor as described above with respect to claim 6.

As per claim 10, Appellants also submit that Ouimet et al. does not disclose indexing said demand group equivalent sales model. However, it is the combination of Ouimet, Garg and Chavez. Specifically, Chavez discloses that the baseline demand is considered when dealing with modeled demand parameters as shown in Col. 10, lines 7-25.

Lastly, as per claim 11, appellant argues that Chavez fails to disclose additional econometric variables. However, this feature is obvious with Chavez since Chavez already discloses an imputed variable generator for generating imputed econometric variables in col. 8, lines 22-27, and an imputed consumer stockpiling variable, an imputed day of the week variable, an imputed seasonality variable, an imputed promotional variable, and an imputed cross-elasticity variable are all a part of econometric parameters, and are all commonly applied in the application of economics in the study of problems, the analysis of data, and the development and testing of theories and models.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Akiba Robinson

/Akiba Robinson/  
Primary Examiner, Art Unit 3628

Conferees:

John Hayes, SPE 3628

/JOHN W HAYES/  
Supervisory Patent Examiner, Art Unit 3628

Igor Borissov, Primary Examiner, 3628

/Igor N. Borissov/  
Primary Examiner, Art Unit 3628